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HOUSE BILL 328

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO HUMAN TRAFFICKING; PROVIDING FOR PROTECTION AND ASSISTANCE TO HUMAN TRAFFICKING VICTIMS; CREATING A CAUSE OF ACTION FOR HUMAN TRAFFICKING VICTIMS; EXPANDING STATE ASSISTANCE; EXPANDING THE DUTIES OF THE TASK FORCE TO COMBAT HUMAN TRAFFICKING; INCLUDING HUMAN TRAFFICKING IN THE CRIME VICTIMS REPARATION ACT; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of Chapter 30, Article 52 NMSA 1978 is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in Chapter 30, Article 52 NMSA 1978:

A. "human trafficking victim" means a person subjected to human trafficking by a person charged in New Mexico with the crime of human trafficking pursuant to Section .175692.1

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1 30-52-1 NMSA 1978; and

2 B. "human trafficking victim advocate" means a
3 person provided by the human services department through a
4 nonprofit agency with expertise in providing services for
5 victims of crime."

6 Section 2. A new section of Chapter 30, Article 52 NMSA
7 1978 is enacted to read:

8 "[NEW MATERIAL] PROTECTION AND ASSISTANCE TO HUMAN
9 TRAFFICKING VICTIMS.--

10 A. Immediately upon identifying the presence in New
11 Mexico of a human trafficking victim who offers a law
12 enforcement agency information regarding a perpetrator of human
13 trafficking, the attorney general shall coordinate state and
14 local law enforcement agencies to provide the victim protection
15 from retaliatory action.

16 B. A human trafficking victim advocate or a
17 victim's advocate from the district attorney's office shall be
18 provided immediately upon identification of a human trafficking
19 victim.

20 C. The prosecuting authority shall take all
21 reasonable steps within its authority to provide a human
22 trafficking victim with:

23 (1) all necessary documentation required
24 pursuant to federal law for an adjustment of immigration status
25 that applies to that victim; and

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1 (2) assistance in accessing civil legal
2 services providers who are able to petition for adjustment of
3 immigration status on behalf of the victim."

4 Section 3. A new section of Chapter 30, Article 52 NMSA
5 1978 is enacted to read:

6 "[NEW MATERIAL] CIVIL ACTION FOR HUMAN TRAFFICKING
7 VICTIMS.--

8 A. A human trafficking victim may bring a civil
9 action in any court of competent jurisdiction for actual
10 damages, compensatory damages, punitive damages, injunctive
11 relief or any other appropriate relief. Where the court finds
12 that a defendant's actions were willful and malicious, the
13 court may award treble damages to the plaintiff. A prevailing
14 plaintiff is also entitled to recover reasonable attorney fees
15 and costs.

16 B. A civil action pursuant to this section shall be
17 forever barred unless the action is filed within ten years from
18 the date on which:

19 (1) the defendant's human trafficking actions
20 occurred; or

21 (2) the victim attains eighteen years of age
22 if the victim was a minor when the defendant's actions
23 occurred."

24 Section 4. Section 30-52-2 NMSA 1978 (being Laws 2008,
25 Chapter 17, Section 2) is amended to read:

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1 "30-52-2. HUMAN TRAFFICKING--BENEFITS AND SERVICES FOR
2 HUMAN TRAFFICKING VICTIMS.--[A.] Human trafficking victims
3 found in the state shall be eligible for benefits and services
4 from the state until the victim qualifies for benefits and
5 services authorized by the federal Victims of Trafficking and
6 Violence Protection Act of 2000; provided that the victim
7 cooperates in the investigation or prosecution of the person
8 charged with the crime of human trafficking. A victim's
9 ability to cooperate shall be determined by the court if the
10 issue is raised by a human trafficking victim advocate or a
11 victim's advocate from the district attorney's office.

12 Benefits and services shall be provided to eligible human
13 trafficking victims regardless of immigration status and may
14 include:

- 15 [~~1~~] A. case management;
- 16 [~~2~~] B. emergency temporary housing;
- 17 [~~3~~] C. health care;
- 18 [~~4~~] D. mental health counseling;
- 19 [~~5~~] E. drug addiction screening and treatment;
- 20 [~~6~~] F. language interpretation, translation
21 services and English language instruction;
- 22 [~~7~~] G. job training, job placement assistance and
23 post-employment services for job retention;
- 24 H. child care;
- 25 I. legal assistance;

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1 J. state-funded cash assistance;

2 ~~[(8)]~~ K. services to assist the victim and the
3 victim's family members; or

4 ~~[(9)]~~ L. other general assistance services and
5 benefits as determined by the children, youth and families
6 department or the human services department.

7 ~~[B. As used in this section, "human trafficking~~
8 ~~victim" means a person subjected to human trafficking by a~~
9 ~~person charged in New Mexico with the crime of human~~
10 ~~trafficking.]"~~

11 Section 5. Section 30-52-3 NMSA 1978 (being Laws 2008,
12 Chapter 17, Section 3) is amended to read:

13 "30-52-3. ~~[TEMPORARY PROVISION]~~ TASK FORCE TO COMBAT
14 HUMAN TRAFFICKING--MEMBERSHIP--DUTIES.--

15 A. The "task force to combat human trafficking" is
16 created. The task force shall consist of the following
17 members:

18 (1) the attorney general or the attorney
19 general's designee;

20 (2) the secretary of health or the secretary's
21 designee;

22 (3) the secretary of children, youth and
23 families or the secretary's designee;

24 (4) the secretary of public safety or the
25 secretary's designee;

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1 (5) the chief public defender or the chief
2 public defender's designee;

3 (6) a representative from the New Mexico
4 district attorney's association;

5 (7) representatives of local law enforcement
6 and state police from critical geographic areas of New Mexico
7 affected by immigrant issues and human trafficking problems;
8 and

9 (8) representatives from organizations that
10 provide services to victims of human trafficking, including
11 immigrants and immigrant victims of sexual assault and domestic
12 violence.

13 B. The task force shall:

14 (1) collaborate with the United States
15 attorney for the district of New Mexico, the United States
16 border patrol and the United States immigration and customs
17 enforcement to carry out the duties of the task force;

18 (2) collect and organize data on the nature
19 and extent of human trafficking in New Mexico;

20 (3) collect and organize data on the
21 interrelationship between human trafficking and the incidence
22 of disabilities and determine the availability of disabilities
23 services to human trafficking victims;

24 [~~3~~] (4) monitor and evaluate the
25 implementation of [~~this 2008 act~~] Chapter 30, Article 52 NMSA

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1 1978, including the progress of federal, state and local law
2 enforcement agencies in preventing human trafficking,
3 protecting and providing assistance to victims of human
4 trafficking and prosecuting human trafficking offenders;

5 [(4)] (5) develop and conduct training for law
6 enforcement personnel and victims services providers to
7 identify victims of human trafficking;

8 [(5)] (6) examine the training protocols
9 developed by federal, state and local law enforcement agencies
10 related to dealing with human trafficking victims and
11 offenders;

12 [(6)] (7) assist in coordinating federal,
13 state and local government agencies in the implementation of
14 [~~this 2008 act~~] Chapter 30, Article 52 NMSA 1978;

15 [(7)] (8) implement a media awareness campaign
16 in communities affected by human trafficking;

17 [(8)] (9) develop recommendations on how to
18 strengthen state and local efforts to prevent human
19 trafficking, protect and assist human trafficking victims and
20 prosecute human trafficking offenders; and

21 [(9)] (10) submit an annual report of its
22 activities, findings and recommendations, including any
23 proposed legislation, in December of each year to the governor
24 and the legislature.

25 C. The chair of the task force shall be the

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1 attorney general or the attorney general's designee, and the
2 task force shall meet at the call of the chair.

3 D. The public members of the task force are
4 entitled to per diem and mileage as provided in the Per Diem
5 and Mileage Act and shall receive no other perquisite,
6 compensation or allowance.

7 E. The attorney general shall provide the staff for
8 the task force.

9 F. The task force to combat human trafficking is
10 terminated on July 1, 2016."

11 Section 6. Section 31-22-8 NMSA 1978 (being Laws 1981,
12 Chapter 325, Section 8, as amended) is amended to read:

13 "31-22-8. CRIMES ENUMERATED.--

14 A. The crimes to which the Crime Victims Reparation
15 Act applies and for which reparation to victims may be made are
16 the following enumerated offenses and all other offenses in
17 which any enumerated offense is necessarily included:

- 18 (1) arson resulting in bodily injury;
- 19 (2) aggravated arson;
- 20 (3) aggravated assault or aggravated battery;
- 21 (4) dangerous use of explosives;
- 22 (5) negligent use of a deadly weapon;
- 23 (6) murder;
- 24 (7) voluntary manslaughter;
- 25 (8) involuntary manslaughter;

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- 1 (9) kidnapping;
- 2 (10) criminal sexual penetration;
- 3 (11) criminal sexual contact of a minor;
- 4 (12) homicide by vehicle or great bodily
- 5 injury by vehicle, as provided in Section 66-8-101 NMSA 1978;
- 6 (13) abandonment or abuse of a child;
- 7 (14) aggravated indecent exposure, as provided
- 8 in Section 30-9-14.3 NMSA 1978; [~~and~~]
- 9 (15) aggravated stalking, as provided in
- 10 Section 30-3A-3.1 NMSA 1978; and
- 11 (16) human trafficking.

12 B. No award shall be made for any loss or damage to
13 property."

14 Section 7. APPROPRIATION.--

15 A. Two hundred eighty-five thousand dollars
16 (\$285,000) is appropriated from the general fund to the
17 following entities in fiscal year 2010 in the following amounts
18 for the following purposes:

- 19 (1) thirty-five thousand dollars (\$35,000) to
- 20 the office of the attorney general for per diem and mileage for
- 21 the public members of the task force to combat human
- 22 trafficking, for training for law enforcement personnel and
- 23 victims services providers, for a media awareness campaign and
- 24 for other expenditures of the task force to combat human
- 25 trafficking;

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